

**BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA**

DOCKET NO. 2012-____-G

In the Matter of:

Application of Piedmont Natural Gas)	PETITION FOR
Company, Inc. for Clarification/)	CLARIFICATION/DECLARATORY ORDER
Declaratory Order)	

Piedmont Natural Gas Company, Inc. (“Piedmont” or the “Company”), through counsel and pursuant to South Carolina Code Annotated §§ 58-3-140, 58-5-210, and 58-5-270 and Rule 103-405 of the Rules and Regulations of the Public Service Commission of South Carolina (“Commission”), respectfully requests clarification and/or a declaratory order regarding the permissible parameters of Piedmont’s provision of natural gas sales service to sub-metered residential apartment building owners. The clarification/request for declaratory order set forth herein is prompted by (1) an inquiry from a third-party billing management firm which proposes to provide billing services to a sub-metered residential apartment building on Piedmont’s system, and (2) the Commission’s previously issued Order No. 2008-853 which disclaimed Commission jurisdiction over the operations and activities of a residential apartment owner that provided sub-metered natural gas service to its tenants. Piedmont requests clarification of its rights and obligations relating to the provision of natural gas sales service to such customers. In support of this request, Piedmont respectfully shows unto the Commission the following:

1. It is respectfully requested that any notices or other communications with respect to this Petition be sent to:

Jane Lewis-Raymond
Vice President & General Counsel
Piedmont Natural Gas Company, Inc.
Post Office Box 33068
Charlotte, NC 28233
Telephone: 704-731-4261
jane.lewis-raymond@piedmontng.com

And
Scott M. Tyler¹
James H. Jeffries IV²
Moore & Van Allen PLLC
100 North Tryon Street, Suite 4700
Charlotte, NC 28202-4003
Telephone: 704-331-1079
jimjeffries@mvalaw.com

2. Piedmont is incorporated under the laws of the state of North Carolina and is duly authorized by its Articles of Incorporation to engage in the business of transporting, distributing and selling natural gas. It is duly domesticated and is engaged in conducting the business above mentioned in the states of South Carolina, North Carolina and Tennessee. Piedmont is a public utility under the laws of this State, and its public utility operations in South Carolina are subject to the jurisdiction of this Commission.

3. The Commission has previously granted Piedmont Certificates of Public Convenience and Necessity authorizing it to acquire certain gas franchises and properties in the state of South Carolina. Piedmont holds franchises and is furnishing natural gas to customers in various cities and towns in South Carolina.

¹ Mr. Tyler is a member in good standing of the South Carolina bar.

² If this matter is set for hearing, Mr. Jeffries will request admission to practice before this Commission in this matter *pro hac vice* in conformance with the rules of the South Carolina Supreme Court.

4. Under Section 20 of Piedmont’s approved South Carolina service regulations (Prohibition Against Resale of Gas), gas is sold and delivered by Piedmont upon the express condition that the customer not sell, resell, assign, or otherwise dispose of gas to any person, firm, or corporation unless the gas is provided under a rate schedule that specifically provides for “resale.” There are no separate tariff provisions or service regulations that govern the provision of sub-metering. This Section of Piedmont’s South Carolina service regulations was implemented by Piedmont, among other reasons, in an effort to ensure that activities that could be deemed to constitute the provision of regulated natural gas service could not be lawfully undertaken by Piedmont customers that were not regulated utilities or otherwise authorized to “resell” such service.

5. A third-party utility billing provider recently contacted Piedmont to inquire about the effect of Section 20 of Piedmont’s service regulations on the permissibility of sub-metering gas for apartment complexes and other similar residential structures where landlords want to recover utility costs from tenants. Piedmont’s initial response to this request was that the sub-metered service arrangement described by the third-party billing agent was not permitted by Section 20 of Piedmont’s South Carolina service regulations. In response to this interpretation of Piedmont’s tariff, the third-party billing agent asked Piedmont about the effect of Commission Order No. 2008-853 on Piedmont’s position.

6. In Commission Order No. 2008-853, the Commission declined to assert jurisdiction over an apartment complex that was engaging in sub-metering of gas to its residents on a flow through/not-for-profit basis. Considering the nature of the provision of natural gas service at the apartment complex—billing its tenants for natural gas service on a not-for-profit, pass-through basis as opposed to furnishing or supplying utility service - the Commission

concluded that it was without jurisdiction to regulate the apartment complex. The Commission appears to have concluded that this arrangement did not constitute the provision of utility service by the apartment complex under South Carolina law.

7. Commission Order No. 2008-853 appears to conclude that residential sub-metering arrangements may be lawful in some circumstances but Section 20 of Piedmont's South Carolina service regulations nonetheless appears to prohibit such arrangements. Piedmont desires Commission direction in resolving this apparent conflict between its service regulations and Commission precedent, as well as clarification regarding the parameters of regulated utility service to sub-metered apartment complexes.

8. Based upon its review of Commission Order No. 2008-853, Piedmont understands the Commission's determination to be that residential apartment sub-metering of natural gas is permissible only where charges assessed by Piedmont for the underlying utility service are collected from end-users on a flow-through/not for profit basis. Piedmont seeks confirmation of this interpretation as well as direction as to how and in what manner Piedmont should seek confirmation of the flow-through basis of billing by such customers.

9. In addition, landlords of sub-metered apartment complexes would only qualify for service as Small General or Medium General service customers under Piedmont Rate Schedule Nos. 202, 232, 252, and 262, notwithstanding the fact that the ultimate utilization of the gas provided under these rate schedules would be for purposes more consistent with Piedmont's service to residential customers under Rate Schedule Nos. 201 and 221. Piedmont seeks clarification that its provision of service to sub-metered apartment complexes under Rate Schedule Nos. 202, 232, 252, and 262 is appropriate and not unduly discriminatory with respect to other residential or small/medium general service customers.

10. Piedmont would also note that under its existing tariff provisions, it has no responsibility for the operation, maintenance, or functioning of natural gas lines or equipment beyond Piedmont's meter. In the case of sub-metered apartment complexes, however, service lines and related facilities that would normally be Piedmont's responsibility, will be owned, operated and maintained by the landlords of such complexes. Piedmont seeks confirmation, consistent with its existing tariff provisions, that Piedmont shall have no responsibility for or liability associated with the condition, operation, maintenance or repair of service lines or similar distribution facilities downstream of its meter in conjunction with service provided to sub-metered apartment complexes.

11. Finally, in the context of residential service provided by Piedmont directly to end users under Rate Schedule Nos. 201 and 221, Piedmont would normally be subject to the Commission's Complaint jurisdiction. Piedmont seeks confirmation that no such complaint jurisdiction would exist with respect to end-use complainants in sub-metered apartment complexes and that only Piedmont's customer, the landlord of any such complex, would have the right to initiate complaint proceedings before the Commission against Piedmont.

12. Based on the foregoing, Piedmont respectfully requests that the Commission confirm/clarify that (and the conditions under which) Piedmont may lawfully provide service to sub-metered apartment complexes as requested herein. Upon receipt of such confirmation/clarification, Piedmont intends to submit conforming tariff changes to the Commission for approval.

Respectfully submitted, this the 5th day of July, 2012.

Piedmont Natural Gas Company, Inc.

s/ Scott M. Tyler

Scott M. Tyler

OF COUNSEL:

Moore & Van Allen PLLC
100 North Tryon Street, Suite 4700
Charlotte, NC 28202-4003
Telephone: 704-331-1079

STATE OF NORTH CAROLINA
COUNTY OF MECKLENBURG

VERIFICATION

Pia Powers, being duly sworn, deposes and says that she is Manager – Regulatory Affairs of Piedmont Natural Gas Company, Inc., that as such, she has read the foregoing Petition and knows the contents thereof; that the same are true of her own knowledge except as to those matters stated on information and belief and as to those she believes them to be true.

Pia Powers

Pia Powers

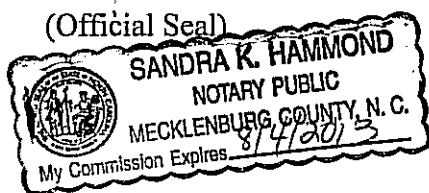
Mecklenburg County, North Carolina
Signed and sworn to before me this day by Pia Powers.

Date:

July 5, 2012

Sandra K. Hammond

Sandra K. Hammond, Notary Public



My commission expires: *August 4, 2013*

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the attached PETITION is being served upon the Office of Regulatory Staff via electronic mail and UPS Overnight Mail addressed as follows:

State of South Carolina
Office of Regulatory Staff
John Flitter
Florence Belser
1401 Main Street, Suite 900
Columbia, South Carolina 29201
jflitter@regstaff.sc.gov
fbelser@regstaff.sc.gov

This the 5th day of July, 2012.

s/ Scott M. Tyler
Scott M. Tyler